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ORGANIZATION OF THE WORK OF THE SESSION

Written statement submitted by the Lawyers Committee for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[11 February 1998]

The field office of the United Nations High Commissioner for Human Rights in Colombia

1. Since the last session of the Commission on Human Rights, Colombia's human rights situation has worsened on crucial fronts. The campaigns of terror led by paramilitary groups, and to a lesser extent the guerrillas, have expanded. The Colombian military has been unable or unwilling to take effective measures against them. Massive displacement of rural populations continues as a result. The legal system continues to fail on all fronts, combining impunity with widespread denial of due process rights within the criminal justice system.

2. The Commission on Human Rights was instrumental in bringing about an agreement between the United Nations High Commissioner for Human Rights and the Government of Colombia for the establishment of a human rights field office in Bogotá. That office began operations in May 1997. This year the High Commissioner for Human Rights will present the Commission with a report on Colombia. The report is intended to serve two functions: to describe and analyse the human rights situation in Colombia, and to discuss the activities of the field office during its first 10 months of operation. During consideration of the report, it is important to bear in mind the complicated circumstances in which the field office arose. For the Commission, catalyzing such an initiative was a new role, and the field office a relatively novel creation. The gravity and complexity of Colombia's human rights situation, and the resignation of the former High Commissioner for Human Rights, made the task of creating an effective field office still more daunting.

3. As the mandate for the field office expires at the end of April 1998, the Commission will undoubtedly also consider whether to support calls for its renewal, and under what terms and conditions. This statement is intended to identify key issues bearing on these matters for the Commission's consideration.

The field office's mandate

4. The agreement authorizing the field office empowers it to perform many functions, including:

(a) Providing expert advice to relevant government entities responsible for promoting and ensuring compliance with human rights policies;

(b) Evaluating the policies and actions of competent authorities in light of international human rights instruments;

(c) Receiving and transmitting complaints and promoting their proper reception and handling by the competent authorities;

(d) Formulating recommendations for achieving better compliance with human rights instruments; and

(e) Observing the human rights situation.

The field office has a variety of means at its disposal for conveying the information, observations and assessments. These include making regular confidential reports to the Government of Colombia; reporting privately to the High Commissioner (who will make a final report to the Commission); and making public pronouncements.

Recommendations of international bodies

5. The findings and recommendations of international bodies, such as the Human Rights Committee, that have reviewed the human rights situation in Colombia, also constitute a framework for the field office. By identifying those most serious and recurrent violations, they give concrete meaning to the bare text of a mandate that speaks only about the types of activity in which the field office may engage. These recommendations will also suggest the questions the Commission should ask as it considers the two primary elements of the High Commissioner's report: the human rights situation and the activities of the field office.

6. Regarding the substance of the human rights situation in Colombia, and the Government's response to the recommendations and the efforts of the field office the following questions are in order:

(a) How has the Government implemented the recommendations?

(b) Which steps remain to be taken to more fully implement them?

(c) In which areas has the level of implementation diminished?

7. The recommendations and the text of the mandate are also the primary source of regulation for the activities of the field office itself. As it reviews the High Commissioner's report, and evaluates other information it obtains about the field office, the Commission should consider the following:

(a) Has the field office interpreted and executed its mandate faithfully, efficiently and effectively?

(b) What additional guidance, if any, is needed from the Office of the High Commissioner in Geneva?

(c) What areas or aspects of the mandate were the least developed or most neglected?

8. Although Colombia's human rights situation is affected by the existence of an armed conflict of long standing, neither the conflict itself nor the processes tending towards its resolution form part of the field office's responsibility. Regarding the conflict, the field office is responsible only for responding to, and trying to limit, the violations that stem from it. Political questions, for example those concerning negotiated peace processes, can easily drain resources from the very specific task of observing and promoting human rights compliance. Preserving the distinction between the search for peace and the human rights situation is particularly crucial in Colombia, where only an estimated 10 per cent of fatalities are directly related to the fighting. Moreover, field office involvement in discussions

or activities related to a political settlement are likely to call into question - rightly or wrongly - its impartial and apolitical character. In fact, experience in other countries (El Salvador, Haiti and Guatemala are among the best-known examples in the Americas) has made it nearly axiomatic that the imperatives of human rights protection and political negotiations are often antagonistic, requiring at a minimum that they be strictly understood as separate and kept operationally independent of one another.

Operations and practices

9. Any review of field office activities should bear in mind lessons drawn from other relevant human rights field experience, including the following:

Transparency of operations

10. A human rights mission should strive to make its work transparent. This requires clear methods, procedures and standards, and communicating them, particularly to those institutions that will seek to assist or seek assistance from the office. Non-governmental organizations will enhance the work of a small office if they are aware of the standards and practices governing data collection and reporting; and will better contribute to the human rights situation after the office has left Colombia if their own methods have benefited from an effective collaboration with the field office during its tenure.

11. Transparency also entails making certain information about the human rights situation publicly available. In Colombia, this may mean taking full advantage of the field office's ability to issue public pronouncements. Public statements are often the most powerful means of emphasizing the necessity of appropriate governmental action on human rights, and should complement technical cooperation. The mandate of the Colombia field office lends itself well to a complementary mix of approaches, since it combines cooperation with observation and reporting responsibilities. The Commission should consider whether the field office has succeeded in balancing these respective activities.

Choosing priorities

12. The findings and recommendations regarding Colombia by international bodies spans a wide gamut of rights, and the text of the mandate says nothing about the relative emphasis to be given to different issues. However, it is clear that to be effective, an office of limited size must make careful choices in the face of the enormous challenges in Colombia. For instance:

(a) Problems that can be effectively addressed by a change of government policy or through legislative action are priority candidates for field office resources. The field office should endeavour to get the Government to take immediately those steps that are within its powers;

(b) The administration of justice, which affects the enjoyment of a host of other rights - and has figured in a disproportionate number of recommendations - is an obvious priority area for targeted activity;

(c) With regard to problems that are probably beyond the immediate capacity of the Government to resolve (e.g. massive population displacement), the field office should not attempt solutions. It should, however, issue detailed public statements designed to bring the nature and severity of the problem to the attention of international institutions and potential donors who can provide material and technical assistance.

Reporting to and guidance from Geneva

13. Lastly, the Commission should consider the nature of the relationship between the field office and the Office of the High Commissioner. Particularly in those areas where changes in approach are warranted, the High Commissioner should play an institutional role, reviewing priorities, methods and results. In this context, the importance of regular confidential reporting from Bogotá to Geneva cannot be overstated. From a new High Commissioner with a restructured office, the Commission should expect greater involvement in and support for the planning and execution of field operations.

Conclusion

14. The Lawyers Committee for Human Rights wishes to emphasize that since the field office began operations there are many signs of deterioration in Colombia's human rights situation. But there is also concrete evidence that international attention can prompt change, for example the Government's proposed revision of the military justice code. However the Commission ultimately evaluates the effort and the impact of the field office, it will no doubt recognize that an independent international human rights presence in Colombia is essential. Equally imperative is that this presence be a coherent and effective expression of the findings and concerns of the Commission and other international bodies regarding Colombia.